REMARKS

Reconsideration of the application is requested in view of the amendment to the claims and the remarks presented herein.

The claims in the application are claims 1 to 15, 19 and 20, all other claims being cancelled.

Claims 1 and 9 have been amended to correct the polyglyceryl acylate and to clarify that the compositions have 3 components selected from a Markhus group of 5 constituents. Claim 16 has been presented as proper composition claim 20.

All the claims have been rejected under 35 USC 103 as being obvious over the Rerek et al, Lezdey et al, Krysik et al, Lu et al and Dobler et al patents taken in view of the Gers-Barlag et al patent. The Examiner states that the claims are directed to a gelling and/or thickening agent formed at least 3 constituents of a polyacrylamide, an ammonium acrylate copolymer and/or anionic acrylic copolymer, phospholipids of plant origin and a polyglyceryl acrylate. The Examiner deems the claimed compositions would be obvious from the cited art absent some demonstration of unexpected results from the claimed parameters.

Applicants traverse these rejections since the cited art does not teach the present invention. The Rerek patent describes an emulsifier composition which is a mixture of a lecithin (high HLB emulsifier) and a blend of low HLB emulsifiers chosen from emulsifiers

having a non-ionizable group (alcohols for instance) as well as emulsifiers having an ionizable group (carboxyl, such as stearic acid, palmitic acid .. esters such as glyceryl monostearate or sorbitan monostearate). The emulsifier compositions according to examples 1 to 6 comprise lecithin and behenyl alcohol and glyceryl stearate, as well as other components such a palmitic or stearic acids. It is stated that the emulsifier composition forms a bilayer lamellar gel network. This lamellar network forms a discrete third phase between the oil and water phases. None of these emulsifier compositions comprise polymers or copolymers. Only the cream formulation according to example 8 comprises Carbopol®, glycerin and water in phase B, but this polymer is part of the final composition and it is not part of the emulsifier composition.

According to the invention, the emulsions forming the gelling or thickening agent are not lamellar, but conventional emulsions. As stated in page 3, paragraph [0040] of the published application: "the gelling and/or thickening agent has the surprising advantage of being able to be incorporated both into the oil phase and into the aqueous phase", this is not at all a third phase in the final composition. The structure is different according to the very composition of the gelling and/or thickening agent. Moreover, it is well known that lecithins have emulsioning properties that are altered with some parameters such as pH or the presence of alcohol. Surprisingly, it has been evidenced, in the present invention, that the simultaneous presence of a polymer, a lecithin and polyglyceryl acrylate conducts to far better emulsifying or gelling properties, mainly in the range of pH 2 to 12 and in the presence of up to 40% of ethanol (see page 1, paragraph [0009], lines 2 to 4).

Therefore the Rerek reference cannot render obvious the instant invention.

The Lezdey patent describes a lubricating composition to be used in the mucosal areas. This composition, which can be presented in all forms, including among others, emulsions of liquid or semisold consistency of the cream or gel type, can also comprise pharmaceutically usual adjuvants such as hydrophilic gelling agents. The hydrophilic gelling agents can be selected from acrylate copolymers, polyacrylamides... Glycerol stearate can be used as emulsifier. No additive such as a gelling or thickening agent according to the instant invention is prepared to be included in the composition. Even if the illustrated compositions included a polymer, none of them include lecithin. No composition includes the three components agent of the invention. No suggestion of the components of the gelling agent of the invention was suggested. There was no reason to modify anything in the compositions of Lezdey that could have conducted to the invention. As a consequence, this reference could not be an anticipation or obviousness of the present invention.

The Krzsik patent describes a skin soft wet wipe comprising an oil in water emulsion composition. The emulsifying surfactant comprised in the composition may included glyceryl stearate. The natural fat or oil used for the composition may include phospholipids, among a long list of components (column 5, line 10). Some reference is made to the Rerek patent commented above. As it is already the case in the rErek patent, the Krzsik does not include any polymer or copolymer in the composition. No acrylic polymer is mentioned with regard to the emulsifying surfactant. Therefore, no agent such as defined in the invention is described in this reference, nor is it suggested. Even combining this reference with Rerek or any other cited reference, it would not have been possible to prepare the agents according to the invention. At

most, the combination would have led one to use polyglyceryl stearate instead of glyceryl stearate, but nowhere was suggested the use of an acrylic polymer in the composition.

The Lu reference describes topical cosmetic compositions for remediating the effects of aging, including one composition which is a blend of neem seed cell and one or more botanical ingredients or another composition comprising fruit extract and optionally botanical ingredients. According to the description of the examples, the compositions can comprise thickeners including polymers and emulsion stabilizers such as acrylates, but these are only cited common ingredients. This part of Lu reference in not at all the core of the desc ribed invention of the reference. Therefore, this reference not only does not describe the instant invention, nut it would not have suggested at all the subject matter of the invention as it is turned to too much different compositions that have nothing to do with the goal of the invention.

The Dobler patent describes a fragrance in a gel form, including alcohol and polymer in a sufficient amount for viscosity. The polymer can be chosen from organic or inorganic polymers, or mixtures thereof. Examples of polymers are given in columns 3 and 4. Among a number of polymers are cited acrylamide copolymers and acrylate copolymers. Nowhere is cited polyglyceryl acylate. Nowhere is the use of a lecithin in the composition is considered. No three components such as described in the instant invention is mentioned so far, no such agent was even suggested. Also, the combination with the other cited references bad no chance to lead to the gelling and/or thickening agents defined in the invention. Moreover, the gel according to the Dobler reference is made without water. On the contrary, the cosmetic compositions made according to the invention include water in the form of an oil in water emulsion.

The Gers-Barlag patent describes oil in water in oil microemulsions including a UV filter dissolved in it. The formulation is used for cosmetic or dermatologic compositions for light protection. The formulation comprise an aqueous phase, an oily phase including the UV filter substance, at least one emulsifier (emulsifier A) which lipophilicity depends on the pH and/or on the temperature, and further substances, preferably chosen from the group of emulsifiers that are not comprised in the above mentioned group. Gel forming agents can be present in the composition such as carbopols. The emulsifier A can be chosen from monocarboxylic acid monoesters; among others triglycerol mono carboxylic acid esters, polyglyceryl 3-diisostearate .. (column 10). Nowhere in these compositions are mentioned the use of lecithins. Nowhere is mentioned a gelling or thickening agent comprising three components such as it is stated in the invention. Therefore, there was no description of the agents according to the invention and there was no suggestion that a change could be made to realize a composition comprising such a three component agent.

No combination of any of the above discussed references would have led to the invention. Therefore, there is no reason for a rejection of obviousness based on the cited references and withdrawal of these rejections is requested.